Action Plan and Advocacy Working Group Matrix

Highlighted cells indicate U.S. Action/Interest

Agenda Item		US Member	US ABAC action	USG Position	Other economy positions
3. APEC Briefing		Kevin Thieneman	• Monica Contreras will provide an update. No document available at this time.		
3. Advocacy Progress update					
a	2012 Advocacy priorities	Kevin Thieneman/Deb Henretta	• ABAC USA made significant progress in enhancing engagement between ABAC and APEC last year. • ABAC USA should monitor this issue closely to ensure that Russia is forming an effective strategy to continue with this engagement. • Kevin may wish to voice support for ongoing engagement with APEC officials.		
b	ABAC Achievements (CTI2 Singapore)		• David Dodwell will report on activities during the CTI2 meetings in Singapore		
c	Priorities for SOM II	Kevin Thieneman/Deb Henretta	•		
d	WG Chairs report on progress and expectations for 2012 advocacy	Alex Parle	• Alex will give an update IDWG advocacy efforts regarding investment		
4. Managing Enhanced Expectations					
a	A paper for consideration		• Anthony Nightingale will lead a discussion on considerations for how ABAC can engage with APEC working groups in a consistent and meaningful manner • ABAC USA feels the best way is to limit the scope of engagement to the upper level of APEC groups (Leaders, Ministers, SOMs and CTI) and also make better use of the ABAC Secretariat staff at APEC meetings.		
b	Managing information and institutional memory: thoughts on an interactive ABAC Portal	Kevin Thieneman			
5. Advocacy at home					

a	Briefing with home Officials		• Deb may wish to voice support for the ongoing briefings with APEC officials. • ABAC USA submitted a report on its meetings with USG.		
b	Newsletter				
c	ABAC Outreach/involve local business Groups		• David Dodwell will discuss bringing outside business groups to future ABAC meetings. • ABAC USA is supportive this initiative		

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Action Plan and Advocacy Working Group

ABAC2, Kuala Lumpur May 23 2012

Draft Agenda

Agenda Item No.	Issue	Lead Economy/ Speaker	Time	Doc. No.
1.	**Welcome, introductory remarks, approval of agenda**	APAWG Chair	5 min	
2.	**Minutes and matters arising from ABAC1 in Hong Kong, February 2012**	APAWG Chair		
3.	**Advocacy Progress update**			
3a	Advocacy Priorities for 2012	Russia Representative	10 min	
3b	ABAC Achievements so far (Singapore CTI2)	Dodwell to summarise	5 min	*
3c	Priorities for Kazan SOM2 and Vladivostok Leaders Meeting	Dodwell to summarise	5 min	
3d	WG Chairs to report on progress and expectations on their 2012 advocacy priority	WG Chairs	35 min	
4.	**Managing enhanced expectations**			
4a	A paper for consideration	David Dodwell Alex Parle	20 min	*
4b	Managing information and institutional memory: Thoughts on an interactive ABAC Portal	Haslina Taib	20 min	*
5.	**Advocacy at home**			
5a	Briefings with home officials	ABAC Secretariat	5 m	ABAC Secretariat
5b	Newsletter circulation and development	ABAC Philippines	10 m	Attach Newsletter
5c	Raising awareness and involving local business groups	Dodwell	5 m	

*** Documents to be provided**

Meeting Document Summary Sheet Template

Document Title: Executive Summary: Investment Experts' Group Private Sector Dialogue
Purpose: For information
Issue: Update on implementation of ABAC's Investment Work Plan
Background: As part of the Investment Work Plan endorsed at ABAC I Hong Kong, ABAC USA organized a dialogue with the APEC Investment Experts' Group on the margins of the APEC meetings held in Singapore in early March. The attached document is a summary of that event which has been submitted for information purposes.
Proposal /Recommendations: • N/A
Decision Points: • N/A

Executive Summary:

Investment Experts Group (IEG) Private Sector Dialogue

March 28, 2012

Marina Bay Sands Convention Center

Singapore

I. Overview: Innovation Needed In Policy Space

As a result of increased investment flows around the region, APEC economies have enjoyed economic growth, stability and poverty alleviation over the last few decades. However recently, APEC's share of global FDI flows is falling rather than rising.

To maintain the current pace of economic growth, the APEC region will require an estimated US $8 trillion for infrastructure development between 2010 and 2020. Governments alone do not have the funds to finance such projects so attracting private sector investment will be critical. Yet many APEC economies still restrict foreign investment in key infrastructure sectors including telecom and energy industries. APEC governments need to examine these barriers and effectively drive infrastructure investment through more FDI-friendly policies. Recently, the private sector has developed innovative public-private partnership models for infrastructure projects. ***To fully leverage this commercial innovation needs governments need to make efforts to innovate in the policy space as well.***

Role of APEC

Given APEC's non-binding nature, the business community tends to perceive APEC as more of a "talk shop." APEC needs to demonstrate concrete actions steps, not just a commitment to talk again. ***From a business perspective, the deliverable is not the meeting itself, but the action items that come out of the meeting.*** At the same time, APEC should leverage its non-binding nature to its advantage, e.g. its ability to facilitate cooperation, sharing of best practices and discussion of emerging issues that may be too sensitive for to be addressed in a formal negotiations.

APEC Business Advisory Council (ABAC) Priority Recommendations:

- Reaffirm and reinvigorate the Investment Facilitation Action Plan (IFAP) to identify and tackle key FDI barriers.
- Adopt and promote "whole of government approaches." The Mininstry of Trade & Investment should work together across all government ministries (e.g. Education, Transport etc.) to achieve success.
- Aim to adopt and promote common APEC-wide investment disciplines. Use the existing **Non-Binding Investment Principles document** as a "living template" for best practices.
- Develop Asia Pacific Infrastructure Partnership to facilitate infrastructure FDI. ABAC already has a working model, adopt it.
- Work to develop International Investment Agreements (IIAs) as well as a regional TPP agreement as well. There are over 6,000 existing bilateral investment agreements and APEC should consolidate these into an effective umbrella treaty.

II. Creating a Favorable Investment Climate for Infrastructure Development

Infrastructure investment in terms of transportation networks, IT systems, power supply (**economic infrastructure**) and hospitals and schools (**social infrastructure**) are both critical to a thriving economy. However, these projects do not only compete for funds on a domestic budget. APEC governments are competing for limited infrastructure capital with countries around the world. If a country fails to create a favorable regulatory and investment environment, the private sector will simply take their money elsewhere.

Due to the economic crisis and relatively mature infrastructure markets in the EU and US, global capital is looking toward Asia. This is a huge opportunity for APEC governments, but capital is not flowing into actual infrastructure projects.

Why Isn't APEC Demand for Infrastructure being met by Supply of Global Capital?

- ***Market barriers to entry***. Barriers including restriction of ownership in infrastructure sectors like telecom and power supply as well as unfavorable regulatory framework in countries such as Malaysia, Thailand and Vietnam.
- ***Undefined project structure and process.*** Multinationals expect a clear structure and process before investing in a project, e.g. investor-state dispute resolution agreements and clear ownership structures.
- ***Risk allocation.*** Capital tends to flow from mature economies with lower risk appetites. The risk profile of economies such as Thailand and India are very different from the risk appetite of the international investor. Matching the risk profiles of countries with the

appetite of the investor is an issue. If governments want to attract investment, they have to develop the appropriate risk framework. For example, PPP projects necessarily need to be structured in a manner that shares risk between the government and private sector.

- ***Increased rigor and caution in investors.*** The recent drop in FDI in APEC is partly due to investors being more cautious with expenditures after the financial crisis. The degree of rigor for assessing investment has increased and debt structures are much stricter.

Private Sector Recommendations: Capital is not Charity

- ***Strong and long-term political commitment*** to favorable regulatory frameworks are required due to longer-term investment perspectives, e.g. debt tenant increased to 12-15 years, bond market maturities at 40-50 years.
- ***Addressing the regulatory and legislative framework*** gives investors confidence that their money is safe and can be easily repatriated to their home country. The private sector wants return for its risk, capital is not charity.
- ***Positive government programs in Indonesia and Philippines focusing on developing a few 10-15 well-structured infrastructure projects.*** APEC governments are increasingly recognizing the importance of developing favorable structures in order to attract investment. Some governments are focusing on a few well-structured deals rather than a host of undeveloped projects. The reality is no investor will go into a deal unless it's well-structured. Overall, the number of well-structured deals is increasing in APEC. As deals become more structured, more capital will flow to infrastructure projects in the region.
- ***Innovation in commercial deal structure as public-private partnerships*** are innovatively using contract management, outsourcing, concessions, upfront government funding, franchising and other innovative management agreements depending on the type of infrastructure project.

III. Honda Case Study: Lifting Restrictions to Technology Transfer

Honda's business strategy focuses on building products close to the customer and supplying locally manufactured products. This involves building production facilities in-country and employing local workers, thereby boosting the domestic economy. Honda has 67 production facilities in 29 countries. But Honda's R&D centers are concentrated in a few locations worldwide (e.g. Japan, USA) and Honda's production model requires smooth technology transfer from its R&D centers to a large number of production facilities worldwide.

Ensure Remittance of IP Fees between local production facility and HQ R&D

A key element for smooth technology transfer is due collection of fair compensation for intellectual property (IP). Core R&D centers in Japan send technology IP to worldwide production facilities (e.g. drawings/design), but the production facilities must pay fair compensation and royalty payments back to the R&D center in Japan. A portion of the return for selling the product must return to the R&D center as compensation. Many governments place restrictions on the remittance of IP fees/royalty payments from the local subsidiary or joint venture back to Honda's head office and R&D. Such restrictions damage Honda's ability to invest and set up production facilities in country, thereby negatively affecting job growth in the local economy. If APEC governments wish to boost employment and investment, they should not intervene in technology transfer remittances, but instead encourage this flow of technology.

Address Double Taxation on Royalty Payments

Another issue facing Honda is the refusal of government tax authorities to recognize IP fees as deductible payments in the area of international taxation of transfer pricing. Double taxation occurs as income tax on royalties is paid by both the local subsidiary and Honda HQ.

Recommendations:

- APEC should ensure that the terms and conditions of transfer of technology, production processes and other proprietary information are left to the agreements between enterprises, consistent with WTO rules.
- Adopt and disseminate OECD Transfer Pricing Guidelines as a common rule within APEC region for a reasonable enforcement of transfer pricing taxation.
- Promote use of Advance Pricing Agreements (APA) procedures in each country.
- Strengthen international forum for arbitration or negotiation.

IV. Metrics and Benchmarking

The private sector long ago learned that our work is constantly reviewed and evaluated based on benchmarks and indicators and success or failure in reaching stated goals. Whether it is in sales numbers, production quantities or other measurements, demonstrating progress quantitatively and objectively is vital.

More broadly, as the APEC economies seek to attract greater investment flows to meet burgeoning infrastructure and economic growth demands, demonstrating that the IFAP and individual economies are achieving and making progress on the important principles laid out will send important signals to potential investors. Investors make decisions about where to invest on several key criteria as laid out well in the ABAC report, Investing for Growth.

Demonstrating progress on key issues - be they barriers to investment, lack of clear regulatory rules or other issues - represents an important tool of investment promotion for all economies.

Examples might include IEG's interest in developing a "cataologue of quantitative indices of IFAP implementation" is an important one. To be effective and successful, care must be taken in providing sufficient detail on the indices and using the types of objective data referred to by the IEG, such as data from the World Bank, UNCTAD, WTO and beyond. Incorporating, as does the World Bank, private sector evaluations of key indices would also be an important way to benchmark such issues appropriately.

The private sector also strongly welcomes individual reporting by APEC economies of activities undertaken each year based on the IFAP indices.

Recommendations

- Progress in implementing the IFAP should be evaluated through objective and quantifiable measurements.
- APEC should also assess ways that the IFAP work is having an impact on individual economy activities.
- APEC should consider cataloguing and publishing newly developed policies that negatively impact the investment environment in the same manner as restrictive trade policies were publicized in the aftermath of the global economic crisis.

V. Small and Medium-sized Enterprise Perspective

The circumstances of SMEs need to be taken into account in APEC's efforts to facilitate foreign investment as they constitute the backbone of most Asian economies. For example, there is a huge interest in Singapore SMEs to invest abroad in the APEC region, but the investment climate needs to be favorable to SMEs as well.

Investment Issues Specific to Small & Medium Enterprises (SMEs):

- ***Smooth and Swift Movement of Foreign Professionals.*** When SMEs invest in a foreign country, unlike larger enterprises, they do not have the resources to send local staff back to the home country for lengthy training. Instead, small businesses require bringing in key foreign managers on site. APEC governments should ensure smooth and swift movement of foreign professionals. SMEs in particular cannot afford any delays in their projects due to stricter financial constraints than their large company counterparts.

- ***SMEs require IPR protection for Swap Deals.*** SMEs are also innovatively collaborating along the supply chain and establishing "swap deals" for production facilities in country with partner firms, rather than building their own factory. These kind of innovative deals need to be protected under IPR laws.

- ***Indonesia Case Study: Discrimination against SME Investment.*** Indonesia distinguishes between foreign and domestic investment. Once an Indonesian company accepts even one dollar of foreign capital, they are considered a foreign investor company and must comply with a host of restrictive regulations. This law effectively discourages SME investment and angel investors who wish to invest $US 20-50K in Indonesian startups, negatively affecting entrepreneurial growth in the country.

SME Recommendations:

- ***Regulatory reform benefits both foreign investors and domestic investors.*** The Indonesian government recently lifted some investment restrictions to encourage foreign investment and as a result, there was a huge increase in domestic investment. In effect, the same investment climate that encourages foreign investment generally also benefits domestic investors and the overall economy.
- ***Centralization of government publications.*** Centralization of investment laws and clear publication of request for proposals on infrastructure projects would facilitate investment. Ministries of Trade & Investment could offer an Ombudsman service to help shepherd foreign companies through the investment process.
- ***Clear demarcation of government agency responsibility***. In addition, decentralization of government power to the district and provincial level is also complicating the SME investment process.
- ***Standardization of contracts***. Governments used to negotiated contracts for each individual company. To the extent economies can have standardized contracts in water and other natural resources, investment will increase.
- ***Early conclusion of TTP Agreement***. The Trans-Pacific Partnership (TTP) agreement will be critical for SMEs. Small businesses need to know that when they move into a country, they are protected by law.